

REMARKS

This responds to the Office Action dated February 9, 2007. No claims are amended, cancelled or added. As a result, claims 1-17 remain pending in this patent application.

§102 Rejection of the Claims

Claims 1, 3-8, 11, 13-15 and 17 were rejected under 35 U.S.C. § 102(b) as being anticipated by Faisandier (U.S. Patent No. 5,800,473). Applicant respectfully traverses these rejections.

Applicant cannot find in the cited portions of Faisandier any disclosure of “a first module listing a plurality of cardiac rhythm management system device families” as similarly recited or incorporated in these claims. Instead, the cited portion of Faisandier apparently merely discloses “an available list of objects in the programmer software 320.” Faisandier at col. 5, lines 57-61. Faisandier’s objects apparently correspond to objects in an implant 200, as clearly described by Faisandier at column 5, lines 46-56:

In the beginning of the exchange of data between an implant 200 and a programmer 300 (step 10, FIG. 2), the programmer 230 (sic) systematically calls a block called List-Of-Objects (230) that is a repertory of available objects in the implant (step 20, FIG. 2)... The List-Of-Objects (230) is maintained in the implant. Preferably, the List-Of-Objects (230) also includes the version of each object in the implant. (*List-Of-Objects identifier added, based on FIG. 1 of Faisandier*)

Moreover, Faisandier’s objects are apparently representations of object oriented software objects, as described at column 4, lines 54-56 of Faisandier. This brings to light two deficiencies.

First, Faisandier’s object list 320, as described with respect to FIG. 1, is apparently merely a list of software objects for a particular implant 200, which correspond to the List-Of-Objects 230. As such, these objects do not disclose or describe “a listing of a plurality of cardiac rhythm management system device families,” as recited in claim 1, and similarly recited in other independent claims 9, 11, and 15. Instead, Faisandier’s objects merely represent parameters associated with an implant 200. Faisandier at col. 4, lines 57-61.

Second, even to the extent that the software objects depicted in FIG. 1 could somehow even arguably be construed as “cardiac rhythm management system device families,” Faisandier does not disclose or describe displaying these software objects in a “listing” on a “user interface

display.” Instead, data in the data structure represented by the List-Of-Objects 230 is communicated from the implant 200 to the programmer 300 to determine which objects are installed, and which objects may need updating. Faisandier at col. 5, lines 46-67. However, neither the List-Of-Objects 230 nor the object list 320 (*see* FIG. 1), are displayed to a user in the arrangement of FIG. 1. Instead, FIG. 1 is merely a block diagram illustrating the object list 320 and the List-Of-Objects 230, which illustrate the content of each data structure—thus, FIG. 1 is not an example user-interface display.

Moreover, Applicant cannot find in the cited portions of Faisandier any disclosure of “a plurality of second modules, each associated with one of the cardiac rhythm management system device families listed by the first module,” as recited or incorporated in these claims. The Office Action relies on steps 50 and 70 of FIG. 2 in Faisandier in attempting to establish this particular element of these claims. Office Action at p. 2. However, the cited portion of Faisandier apparently merely describes downloading objects that are unknown to the programmer to “complete its software and to adapt the programmer to the implant.” Faisandier at FIG. 2; col. 5, lines 57-67. Clearly, downloading unknown objects to a programmer is not the same as displaying a plurality of second modules, each associated with one of the cardiac rhythm management system devices families listed by the first module. Even to the extent that Faisandier’s objects themselves may somehow even arguably be interpreted as “second modules,” they are certainly not associated with a family listed by the first module, nor are they displayed on a user interface display.

In sum, Applicant respectfully submits that Faisandier apparently fails to disclose all elements recited or incorporated in the present claims, therefore, no *prima facie* case of anticipation exists with respect to these claims. Accordingly, Applicant respectfully requests withdrawal of this basis of rejection of these claims.

§103 Rejection of the Claims

Claims 2, 9, 10, 12 and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Faisandier (U.S. Patent No. 5,800,473). Applicant respectfully submits that because all elements recited or incorporated in these claims are apparently not present in Faisandier, no *prima facie* case of obviousness exists with respect to these claims for the reasons discussed

above with respect to the § 102 rejection. Accordingly, Applicant respectfully requests withdrawal of this basis of rejection of these claims.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have equally addressed every assertion made in the Office Action, however, this does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6951 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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May 7, 2007

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 7 day of May 2007.

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